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EXAMINER
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PONIKIEWSKI, TOMASZ

ART UNIT	PAPER NUMBER
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2165

NOTIFICATION DATE	DELIVERY MODE
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01/10/2008

ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

PTOCommunications@hwdpatents.com

## Office Action Summary

**Application No.**

10/688,097

**Applicant(s)**

GODOY ET AL.

**Examiner**

Tomasz Ponikiewski

**Art Unit**

2165

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 01 October 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 1-October-2007 has been entered.

### **Remarks**

2. The Amendment filed on October 1, 2007 has been received and entered. Claims 1-20 are pending. The response to claims objection has not clarified the issue regarding "computer readable medium, therefore it's addressed as 101 rejection below.

### ***Claim Rejections - 35 USC § 101***

3. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

4. Claims 14-20 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

The claims 14-17 fail to place the invention squarely within one statutory class of invention. In paragraph 0040, lines 1-2 of the instant specification, applicant has provided evidence that applicant intends the invention to include software only implementation. The claims lack any reference to of hardware components. Software is not one of the four categories of invention and therefore these claims are not statutory. Software is not a series of steps or acts and thus is not a process. Software is not a physical article or object and as such is not a machine or manufacture. Software is not a combination of substances and therefor not a composition of matter.

The claims 18-20 fail to place the invention squarely within one statutory class of invention. In paragraph 0019, lines 4-5 of the instant specification, applicant has provided evidence that applicant intends the "medium" to include transmission media. As such, the claim is drawn to a form of energy. Energy is not one of the four categories of invention and therefore this claim(s) is/are not statutory. Energy is not a series of steps or acts and thus is not a process. Energy is not a physical article or object and as such is not a machine or manufacture. Energy is not a combination of substances and therefor not a composition of matter. The applicants response points to paragraphs 19-22 and figure 1 reference numbers 12, 14 and 24. However as per paragraph 0019 lines 4-5 of the disclosure directs to memory as containing transmission media which is not a statutory subject matter. As per figure 1 reference number 12 which points to a computer contains memory (reference number 16) which as shown contains non-statutory transmission media.

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1-6 and 9-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nishimura (US 2001/0051904 A1) in view of Christensen et al. (US 2002/0154114 A1) and further in view of Francisco et al (US 5,875,433).

As per claim 1 Nishimura is directed to a method of managing custom data by computer during an electronic purchase, the method comprising:

selecting an item for purchase (page 5, paragraph 0073, wherein "for" is interpreted to be intended use language (see MPEP 2106 II C) and should be replaced with "to") ;

determining a set of attributes for the item, wherein the attributes include item-based attributes and purchase-based attributes (page 4, paragraph 0062),

comparing the set of attributes to a set of keys, wherein each key is generated based on data collected on a custom data form and wherein each key includes an attribute with a corresponding matching value (figure 9, "quantity" and "price"; page 5, paragraph 0078, lines 11-15; page 6, paragraph 0085, lines 1-7); and

displaying the custom data form using the computer in the case where the corresponding matching value of an attribute in the set of keys matches the at least one value of each attribute for the item (page 7, paragraph 102, lines 1-7; page 7, paragraph 0103, lines 7-9, wherein "in the case where the corresponding" is unnecessary as it suggests optional language. It is suggested that it be removed).

Nishimura does not teach wherein each item-based attribute relates to information about the item and each purchase-based attribute relates to information about the electronic purchase and wherein each attribute is associated with at least one value.

Christensen et al. teaches wherein each item-based attribute relates to information about the item and each purchase-based attribute relates to information about the electronic purchase and wherein each attribute is associated with at least one value (Christensen et al., page 3, lines 18-22);

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the Nishimura by teachings of Christensen et al. to include wherein each item-based attribute relates to information about the item and each purchase-based attribute relates to information about the electronic purchase and wherein each attribute is associated with at least one value because attributes are variables that hold data or value as is well known in the art.

Combination of Nishimura and Christensen et al. still does not teach obtaining government regulatory information from a customer that is required as part of the electronic purchase via the custom data form.

Francisco et al. teaches obtaining government regulatory information from a customer that is required as part of the electronic purchase via the custom data form (Francisco et al., column 10, lines 27-31, wherein "government regulating information" reads on "tax").

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the combination of Nishimura and Christensen et al. by teachings of Francisco et al. to include obtaining government regulatory information from a customer that is required as part of the electronic purchase via the custom data form because entering government information is a law when purchasing items.

As per claim 2 Nishimura as modified is directed to the selecting step comprises: adding the item to an electronic shopping cart (Nishimura, page 7, paragraph 0101, wherein item is added to cart after the selects the item);

selecting to checkout the electronic shopping cart (Nishimura, page 7, paragraph 0102, lines 7-10, wherein the client determines whether the item appears to be the one selected);

and obtaining purchase information for the electronic purchase (Nishimura, page 7, paragraph 0103, lines 5-6).

As per claim 3 Nishimura as modified is directed to wherein the custom data form is displayed after the obtaining step (Nishimura, page 7, paragraph 0103, lines 7-9).

As per claim 4 Nishimura as modified is directed to comprising generating the custom data form for the item (Nishimura, page 7, paragraph 0103, lines 7-9).

As per claim 5 Nishimura as modified is directed to comprising obtaining custom data using the custom data form (Nishimura, page 7, paragraph 0103, lines 7-9).

As per claim 6 Nishimura as modified is directed to comprising storing the obtained custom data in a database (Nishimura, page 4, paragraph 0063, lines 8-12, wherein custom data can mean any information about the product).

As per claim 9, Nishimura as modified is directed to the custom data form is displayed once for a plurality of items that match the set of keys (Nishimura, figure 9, wherein the form is displayed matching the selected data).

As per claim 10 Nishimura is directed to a method of managing custom data by a computer during an electronic purchase, the method comprising:

selecting an item for purchase (page 5, paragraph 0073, wherein "for" is interpreted to be intended use language (see MPEP 2106 II C) and should be replaced with "to");

obtaining purchase information for the item (page 7, paragraph 0103, lines 5-6);

determining a set of attributes for the item, wherein the attributes include item-based attributes and purchase-based attributes (page 4, paragraph 0062);



comparing the set of attributes to a set of keys, wherein each key is generated based on data collected on a custom data form and wherein each key includes an attribute with a corresponding matching value (figure 9, "quantity" and "price"; page 5, paragraph 0078, lines 11-15; page 6, paragraph 0085, lines 1-7);

displaying the custom data form using the computer in the case where the corresponding matching value of an attribute in the set of keys matches the at least one value of each attribute for the item (page 7, paragraph 102, lines 1-7; page 7, paragraph 0103, lines 7-9, wherein "in the case where the corresponding" is unnecessary as it suggests optional language. It is suggested that it be removed.);

Nishimura does not teach wherein each item-based attribute relates to information about the item and each purchase-based attribute relates to information about the electronic purchase and wherein each attribute is associated with at least one value.

Christensen et al. teaches wherein each item-based attribute relates to information about the item and each purchase-based attribute relates to information about the electronic purchase and wherein each attribute is associated with at least one value (Christensen et al., page 3, lines 18-22);

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the Nishimura by teachings of Christensen et al. to include wherein each item-based attribute relates to information about the item and each purchase-based attribute relates to information about the electronic purchase and

wherein each attribute is associated with at least one value because attributes are variables that hold data or value as is well known in the art.

Nishimura as modified still does not teach storing the obtained custom data and purchase information in a database.

Christensen et al. does teach and storing the obtained custom data and purchase information in a database (Christensen et al., page 5, paragraph 0049, lines 48-51).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the Nishimura as modified by teachings of Christensen et al. to include saving the information in a database because it is more efficient to store the information about item and purchase data together for good recordkeeping.

Combination of Nishimura and Christensen et al. still does not teach obtaining government regulatory information from a customer that is required as part of the electronic purchase via the custom data form.

Francisco et al. teaches obtaining government regulatory information from a customer that is required as part of the electronic purchase via the custom data form (Francisco et al., column 10, lines 27-31, wherein "government regulating information" reads on "tax").

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the combination of Nishimura and Christensen et al. by teachings of Francisco et al. to include obtaining government regulatory information

from a customer that is required as part of the electronic purchase via the custom data form because entering government information is a law when purchasing items.

As per claim 14 Nishimura is directed to a system for managing custom data by a computer during an electronic purchase, the system comprising:

a selection system to allow a user to select an item for purchase (page 5, paragraph 0073, wherein "allow" and "for" are interpreted to be intended use language (see MPEP 2106 II C) wherein the prior art meets the claim if it's capable of performing the intended use. It is suggested to change to "to provide" and "to purchase" respectively);

an attribute system to determine a set of attributes for the item, wherein the attributes include item-based attributes and purchase-based attributes (page 4, paragraph 0062.);

a key system to compare the set of attributes to a set of keys wherein each key is generated based on data collected on a custom data form and wherein each key includes an attribute with a corresponding matching value (figure 9, "quantity" and "price"; page 5, paragraph 0078, lines 11-15; page 6, paragraph 0085, lines 1-7);and

a form system to display the custom data form using the computer in the case where the corresponding matching value of an attribute in the set of keys matches the at least one value of each attribute for the item (page 7, paragraph 102, lines 1-7; page 7, paragraph 0103, lines 7-9, wherein "in the case where the corresponding" is

unnecessary as it suggests optional language. It is suggested that it would be removed).

Nishimura does not teach wherein each item-based attribute relates to information about the item and each purchase-based attribute relates to information about the electronic purchase and wherein each attribute is associated with at least one value.

Christensen et al. teaches wherein each item-based attribute relates to information about the item and each purchase-based attribute relates to information about the electronic purchase and wherein each attribute is associated with at least one value (Christensen et al., page 3, lines 18-22).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the Nishimura by teachings of Christensen et al. to include wherein each item-based attribute relates to information about the item and each purchase-based attribute relates to information about the electronic purchase and wherein each attribute is associated with at least one value because attributes are variables that hold data or value as is well known in the art.

Combination of Nishimura and Christensen et al. still does not teach obtaining government regulatory information from a customer that is required as part of the electronic purchase via the custom data form.

Francisco et al. teaches obtaining government regulatory information from a customer that is required as part of the electronic purchase via the custom data form

(Francisco et al., column 10, lines 27-31, wherein "government regulating information" reads on "tax").

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the combination of Nishimura and Christensen et al. by teachings of Francisco et al. to include obtaining government regulatory information from a customer that is required as part of the electronic purchase via the custom data form because entering government information is a law when purchasing items.

As per claim 15 Nishimura as modified is directed to comprising a checkout system to obtain purchase information for the item (Nishimura, page 7, paragraph 0103, lines 5-6).

As per claim 16 Nishimura as modified is directed to comprising a storage system to store custom data, wherein the form system further obtains the custom data using the custom data form (Nishimura, page 4, paragraph 0063, lines 8-12, wherein custom data can mean any information about the product).

As per claim 17 Nishimura as modified is directed to the storage system includes:

a custom data group table to store an entry for a custom data group, wherein the custom data group includes each item in the electronic purchase that matches the set of keys (Nishimura, figure 2 shows table with various keys);

Nishimura as modified still does not teach custom data group table to store an entry for the custom data for the custom data group if the custom data form is displayed once for the custom data group as well as

an item custom data table to store an entry for the custom data for each item in the custom data group if the custom data form is displayed once for each item in the custom data group

Christensen et al. does teach custom data group table to store an entry for the custom data for the custom data group if the custom data form is displayed once for the custom data group as well as an item custom data table to store an entry for the custom data for each item in the custom data group if the custom data form is displayed once for each item in the custom data group (Christensen et al., page 5, paragraph 0049, lines 48-51, wherein the database is made up of tables).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the Nishimura by teachings of Christensen et al. to include custom data group table to store an entry for the custom data for the custom data group if the custom data form is displayed once for the custom data group as well as an item custom data table to store an entry for the custom data for each item in the custom data group if the custom data form is displayed once for each item in the custom data group because storing data in tables is convenient and efficient process.

As per claim 18 Nishimura is directed to a computer program product stored on a recordable medium for managing custom data during an electronic purchase, which when executed by a computer comprises:

program code to allow a user to select an item for purchase (page 5, paragraph 0073, wherein, wherein "allow" and "for" are interpreted to be intended use language (see MPEP 2106 II C) wherein the prior art meets the claim if it's capable of performing the intended use. It is suggested to change to "to provide and "to purchase" respectively);

program code to determine a set of attributes for the items, wherein the attributes include item-based attributes and purchase-based attributes (page 4, paragraph 0062);

program code to compare the set of attributes to a set of keys wherein each key is generated based on data collected on a custom data form and wherein each key includes an attribute with a corresponding matching value wherein each item-based attribute relates to information about the item and each purchase-based attribute relates to information about the electronic purchase and wherein each attribute is associated with at least one value (figure 9, "quantity" and "price"; page 5, paragraph 0078, lines 11-15; page 6, paragraph 0085, lines 1-7); and

program code to display the custom data form using the computer in the case where the corresponding matching value of an attribute in the set of keys matches the at least one value of each attribute for the item (page 7, paragraph 102, lines 1-7; page 7, paragraph 0103, lines 7-9, wherein "in the case where the corresponding" is unnecessary as it suggests optional language. It is suggested that it be removed).

Nishimura does not teach wherein each item-based attribute relates to information about the item and each purchase-based attribute relates to information about the electronic purchase and wherein each attribute is associated with at least one value.

Christensen et al. teaches wherein each item-based attribute relates to information about the item and each purchase-based attribute relates to information about the electronic purchase and wherein each attribute is associated with at least one value (Christensen et al., page 3, lines 18-22).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the Nishimura by teachings of Christensen et al. to include wherein each item-based attribute relates to information about the item and each purchase-based attribute relates to information about the electronic purchase and wherein each attribute is associated with at least one value because attributes are variables that hold data or value as is well known in the art.

Combination of Nishimura and Christensen et al. still does not teach obtaining government regulatory information from a customer that is required as part of the electronic purchase via the custom data form.

Francisco et al. teaches obtaining government regulatory information from a customer that is required as part of the electronic purchase via the custom data form (Francisco et al., column 10, lines 27-31, wherein "government regulating information" reads on "tax").



It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the combination of Nishimura and Christensen et al. by teachings of Francisco et al. to include obtaining government regulatory information from a customer that is required as part of the electronic purchase via the custom data form because entering government information is a law when purchasing items.

As per claim 19 Nishimura as modified is directed to further comprising:

program code to obtain purchase information for the item (Nishimura, page 7, paragraph 0103, lines 5-6);

program code to obtain custom data using the custom data form (Nishimura, page 7, paragraph 0103, lines 7-9);

Nishimura does not teach program code to store the custom data and the purchase information.

Christensen et al. teaches program code to store the custom data and the purchase information (Christensen et al., page 5, paragraph 0049, lines 48-51).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the Nishimura by teachings of Christensen et al. to include saving the information in a database because it is more efficient to store the information about item and purchase data together for good recordkeeping.

As per claim 20 Nishimura as modified is directed to comprising program code to process the custom data (Nishimura, figure 4, s20, wherein processing happens when the purchase is submitted).

7. Claims 7-8 and 11-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nishimura (US 2001/0051904 A1) and Christensen et al. (US 2002/0154114 A1) and further in view of Francisco et al (US 5,875,433) and further still in view of Leber et al. (US 2003/0182391 A1).

As per claim 7 Nishimura as modified does not teach concatenating custom data obtained using at least two input fields in the custom data form.

Leber et al. does teach concatenating custom data obtained using at least two input fields in the custom data form (Leber et al., figure. 2b, 288).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to further combine the Nishimura as modified by teachings of Leber et al. to include concatenating custom data obtained using at least two input fields in the custom data form because doing so keeps all the relevant data together.

Nishimura as modified still does not teach storing the concatenated custom data as a large object in the database.

Leber et al. does teach storing the concatenated custom data as a large object in the database (Leber et al., page 4, paragraph 0067, lines 7-8).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to further combine the Nishimura as modified by teachings of Leber et al. to include saving the information in a database because it is more efficient to store the data in a repository that is easily accessed.

As per claim 8 Nishimura as modified still does not teach comprising parsing the concatenated custom data to determine the custom data obtained for one of the at least two fields.

Leber et al. does teach comprising parsing the concatenated custom data to determine the custom data obtained for one of the at least two fields (Leber et al. page 4, paragraph 0067, lines 2-4, wherein "concatenated custom data" could mean "message"; figure. 2b, 288).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the Nishimura as modified by teachings of Leber et al. to include parsing the concatenated custom data because the data would only make sense it placed in proper format.

As per claim 11 Nishimura as modified still does not teach concatenating custom data obtained for a plurality of input fields.

Leber et al. teaches concatenating custom data obtained for a plurality of input fields (Leber et al., figure. 2b, 288).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to further combine the Nishimura as modified by teachings of Leber et al. to include concatenating of data because doing so keeps all the relevant data together.

Nishimura as modified still does not teach storing the concatenated custom data as a large object in the database.

Leber et al. teaches storing the concatenated custom data as a large object in the database (Leber et al., page 4, paragraph 0067, lines 7-8).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to further combine the Nishimura as modified by teachings of Leber et al. to include saving the information in a database because it is more efficient to store the data in a repository that is easily accessed.

As per claim 12 Nishimura as modified is directed to the storing step further comprises storing an entry in a custom data group table for a custom data group, wherein the custom data group includes each item in the electronic purchase that matches the set of keys (Nishimura, figure 2 shows table with various keys).

As per claim 13 Nishimura as modified is directed to storing the large object in an entry in a group custom data table in the case that the custom data form is displayed once for the custom data group (Christensen et al., page 5, paragraph 0049, lines 48-

51, wherein the database is made up of tables, wherein "in the case where the corresponding" is unnecessary as it suggests optional language);

and storing the large object in an entry in an item custom data table in the case that the custom data form is displayed for each item in the custom data group (Christensen et al., page 5, paragraph 0049, lines 48-51, wherein the database is made up of tables).

### ***Response to Arguments***

8. Applicant's arguments with respect to claims 1-20 have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tomasz Ponikiewski whose telephone number is (571) 272-1721. The examiner can normally be reached on 9:00-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christian Chace can be reached on (571)272-4190. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Tomasz Ponikiewski  
December 21, 2007

A handwritten signature in black ink, appearing to read 'Christian Chace', with a long horizontal line extending to the right.

CHRISTIAN CHACE  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2100